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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,643	09/30/2003	Victor T. Massey	081589-0306133	1141
909	7590	06/29/2005	EXAMINER	
PILLSBURY WINTHROP SHAW PITTMAN, LLP			STRIMBU, GREGORY J	
P.O. BOX 10500			ART UNIT	
MCLEAN, VA 22102			PAPER NUMBER	
			3634	
DATE MAILED: 06/29/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/673,643	MASSEY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gregory J. Strimbu	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/30/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

***Claim Rejections - 35 USC § 112***

Claims 1-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "a wooden insert" on line 7 of claim 1 render the claims indefinite because it is unclear what the applicant is attempting to set forth. To what characteristic of wood is the applicant referring? Is the applicant referring to a wooden appearance? In other words is the applicant setting forth an insert that has a wooden appearance? Recitations such as "one side" on line 3 of claim 32 render the claims indefinite because it is unclear what element of the invention includes the side to which the applicant refers. Recitations such as "the wooden insert" on lines 7-8 of claim 32 render the claims indefinite because they lack antecedent basis.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-8, 10-17, 22-27, 29-36 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Hagemeyer et al. Hagemeyer et al. discloses an astragal assembly 62 comprising a metallic rail 79 having an exterior portion (not numbered, but shown in figure 6 as the lowermost portion of the rail), an interior portion (not numbered,

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but shown in figure 6 as the horizontal portion extending into the wooden insert 78) spaced from and opposed to the exterior portion, and a side portion (not numbered, but shown in figure 6) extending between the exterior portion and the interior portion, wherein an elongated open channel (not numbered, but shown in figure 6) is defined in the metallic rail with sides formed by the exterior portion and the interior portion and a base formed by the side portion; and a wooden insert 78 retained within the elongated open channel in the metallic rail, hardware (not numbered, but shown in figure 6 as the screw) is attached directly to the insert, an interior flange (not numbered, but shown in figure 6 extending above the wooden insert 78), a stop shown in figure 6 receiving the gasket 54, an exterior flange (not numbered, but comprising the right hand side of the exterior portion of the rail), a passive door 28, an active door 26, the side portion includes a thermal break (not numbered, but comprising the gap between the exterior flange and the side portion).

Claims 1 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Wendt. Wendt discloses an astragal assembly for attachment to a passive door, comprising: a metallic rail 22 having an exterior portion 25, an interior portion 26 spaced from and opposed to the exterior portion, and a side portion 23 extending between the exterior portion and the interior portion, wherein an elongated open channel is defined in the metallic rail with sides formed by the exterior portion and the interior portion and a base formed by the side portion; and a wooden insert 19 retained within the elongated

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open channel in the metallic rail, the side portion includes openings (not numbered, but shown in figure 3) to receive fasteners.

Claims 1 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Selzer. Selzer discloses an astragal assembly for attachment to a passive door, comprising: a metallic rail 90 having an exterior portion (not numbered, but shown in figure 3), an interior portion (not numbered, but shown in figure 3) spaced from and opposed to the exterior portion, and a side portion (not numbered, but shown in figure 3) extending between the exterior portion and the interior portion, wherein an elongated open channel is defined in the metallic rail with sides formed by the exterior portion and the interior portion and a base formed by the side portion; and a wooden insert (not numbered, but shown in figure 3) retained within the elongated open channel in the metallic rail, the exterior and interior portions each have a hook 91, 92.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hagemeyer et al. as applied to claims 1-3, 5-8, 10-17, 22-27, 29-36 and 38 above,

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and further in view of Germano. Germano discloses an astragal comprising a multiple pieces of wood.

It would have been obvious to one of ordinary skill in the art to provide Hagemeyer et al., with a construction, as taught by Germano, to reduce the cost of manufacturing the assembly.

Claims 9, 28 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hagemeyer et al. as applied to claims 1-3, 5-8, 10-17, 22-27, 29-36 and 38 above, and further in view of Massey et al. Massey et al. discloses an astragal 19 including a strike plate 21.

It would have been obvious to one of ordinary skill in the art to provide Hagemeyer et al. with a strike plate, as taught by Massey et al., to be able to securely latch the door to the astragal.

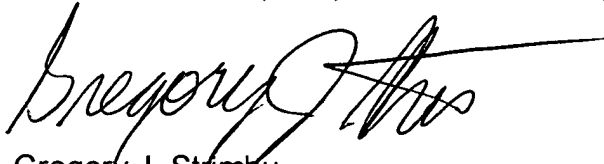
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wright, St. Aubin, Hartman, Holdiman et al. and Schweikart are cited for disclosing an astragal.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Gregory J. Strimbu', with a long horizontal flourish extending to the right.

Gregory J. Strimbu  
Primary Examiner  
Art Unit 3634  
June 24, 2005